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Supreme Court, U.S.
FILED

CASE #: _____ 071021 AUG 20 2007

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN,

Petitioner,

versus

GE CAPITAL SMALL BUSINESS

FINANCE CORPORATION,

Respondent

On Petition For Writ of Certiorari To The United States Court of Appeals For the Eleventh Circuit

Case #: 07-10349-FF

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-620-2060

CASE #: _____

IN
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN

Petitioner,

versus

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION

Respondent

Certificate of Compliance with the Words Limitations

I certify that this petition complies with words (1815 words) limitation set forth in the Supreme Court Rule 33.1(g)(i)

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-623-2060.

CASE #: _____

IN THE
SUPREME COURT OF THE UNITED STATES

JUNG BEA HAN,

Petitioner,

versus

GE CAPITAL SMALL BUSINESS

FINANCE CORPORATION,

Respondent

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct of the foregoing has been

furnished by U.S. mail to Mandel, Daniel S., 7251 W. Palmetto Park, Suit 306,

Boca Raton, FL 33433 this day 17 of september, 2007.

JUNG BEA HAN
5340 E. Avenida De Golf,
Milton, Florida, 32571
850-623-2060.

QUESTION PRESENTED

Is It lawful that the Lower Court Changed the Appellant's Docket Number Without His Permit When the Low Court Filed His Appealing Case to the Eleventh Circuit Court?

Jungbhn@aol i

Certificate of Interested Person

JUNG BEA HAN v. GE Capital Small Business
Case No. _____

The undersigned certifies pursuant to supreme court Rule 14.1(b) that the following persons have an interest in the outcome of this particular case:

Daniel S. Mandel, Counsel for Defendants/ Respondent

Elizabeth M. Timothy, United States Magistrate Judge

Jung Bea Han, plaintiffs/Appellants

M. Casey Rogers, United states District Judge

Wilson and Pryor, Circuit Judges

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Federal Statutes

28 U.S.C 1291
28 U.S.C 1254

Federal Rules of Procedure

Bankruptcy Rule 8003(c)
Bankruptcy Rule 8015
Bankruptcy Rule 9029(a)(2)

I. STATEMENT OF THE BASIS FOR JURISDICTION

The jurisdiction of this Court is based upon 28 U.S.C 1254, which provides, in part, "cases in the Courts of appeals may be reviewed by the Supreme Court by the following methods; (1) by writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;"

And the jurisdiction of the circuit court was based upon 28U.S.C 1291, which provides, in part, "the court of appeals...shall have jurisdiction of appeals from all final decisions of the district courts of the united states....., except where a direct review may be had in the supreme Court."

II. STATEMENT OF THE CASE

Petitioner filed the appeal to the United States Court of Appeals for the Eleventh Circuit on Jan. 7, 2007. The United States District Court for the Northern District Pensacola Division changed the docket number and then filed to the Circuit.

The docket number, which the petitioner wants to be reviewed by the Circuit Court, never have ever been reviewed by the Circuit. Accordingly, Petitioner requested to correct the docket number to the Circuit, the request has been denied on June 25, 2007.1

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III. THE REASONS FOR GRANTING THE WRIT

1. COURSE OF PROCEEDINGS IN THE DISTRICT COURT

According to "the certified civil docket for case" dated February 8, 2007 done by Deputy Clark William M. McCool, this docket number: 3:06-CV-474-MCR-EMT has been prevailed since October 25, 2006 under the district court.

The final decision of the lower court dated December 21, 2006 was for this docket number(3:06-CV-00474-MCR-EMT), but not for October 2004 case number: 04-00127 cv-3-MCR-EMT.2

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After the day, the motion for rehearing 3 filed by Petitioner dated December 26, 2006 was for the docket number (3:06-CV-00474-MCR-EMT), however, Petitioner here filed in error writing case number. For it, the lower court treated the motion as a motion for rehearing on behalf of 2004 case which had been already closed even though the motion meet the requirements for "motion for rehearing" on the ground of Bankruptcy
Rule 8015, 8003(c) with attached with the Order done by the current case number (3:06-CV-00474-MCR-EMT) under the proceeding of the docket number: 3:06-CV-00474-MCR-EMT . The lower court disposed the motion.

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Accordingly, pursuant to Rule 6(b)(2)(A) of the Federal Rule of Appellate Procedure, the Amend Notice of Appeal to the United States Court of Appeals for the Eleventh Circuit has been appealed by Petitioner dated January 12, 2007.

However, the lower court crossed out the docket number: 3:06-CV-00474-MCR-EMT by itself and then changed into the number: 04-00127-CV-3-MCR-EMT which was 2004's case number. It is common sense that the changed docket number by the lower court can not be jurisdiction under the United States Court of Appeals for the Eleventh Circuit, however, the lower court did so.

Since then, Petitioner requested the Circuit Court that the docket number should be corrected and that the corrected docket number case should be reviewed by the Circuit Court. However, the request has been denied.

2. SUMMARY OF ARGUMENT

0. Is the appealing proceeding at the district court from the Bankruptcy Court applicable to the Rule of Federal Rules of Civil Procedure?

The report and recommendation done by Elizabeth M. Timothy of the magistrate Judge was under the Bankruptcy Rule 8006 of the part VIII-Appeals District Court of the bankruptcy rules. 4

In response to the recommendation, the objection was filed by Petitioner with the motion which was grounded on Bankruptcy Rule 8011 under the Part VIII-Appeals to District Court of the bankruptcy rules as the same rule as the Magistrate Judge has done. Because the appealing proceeding was from the Bankruptcy

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5 Appendix 7

Court to the District Court, the rules must be governed under the Part VIII-Appeals to District Court of the bankruptcy rules whatever Petitioner made in error writing case number.

For instance, Petitioner wrote the correct appealing case number on the document of "Response (objection) to the Proposed Finding and Recommendations," and requesting to accept the following revised designation which indicates "the Motion".

The first page was written by the appealing case number:

3:06cv474/MCR/EMT with the title of "Response (objection) to the Proposed Finding and Recommendations and Motion to grant the revised designation of the record on appeal,"

and then the revised designation on the next pages was written by the 2004 case number in error.

Is it legitimate that the appealing proceeding was applied to the Federal Rule of Civil Procedure due to the error in part writing the case number ? And also, Is it lawful that both civil proceeding and appealing proceeding are going on under the proceeding by the same judge?

In spite of that Petitioner as well as the lower court recognized this fact that Petitioner did not mention the 2004 case, the District Court applied the Federal Rules of Civil Procedure under the Appealing Proceeding from the Bankruptcy. The Court made Petitioner's rights lost because of a non-willful failure to comply with the requirement by applying the Federal Rules of Civil Procedure under the appealing proceeding.

Whether the "Motion for rehearing" after the Final Order was not existed or not under the appealing proceeding, it is the fact that "the motion for rehearing" has been disposed by the District Court in terms of Petitioner position in any way. This matter becomes the appealing subject

matter to the higher court. Accordingly, Petitioner filed the appeal to the Circuit Court with the Docket Number: 3:06cv474/MCR/EMT.

The District Court should have submitted the Petitioner's Appeal Notice as it was without changing the docket number. Its action becomes to despise the Petitioner's rights.

It is common sense that if Han file 2004 case this case should be lack of jurisdiction under the higher Court.

If the lower court has authority to change case number on Han's document, why did not correct the appealing case number 3:06cv474/MCR/EMT into "the motion to rehearing" which was written in error?

Those evidences show that the lower court drives this case to be dismissed in any ways. Under such predudice, what kinds of relief is Petitioner expecting from the lower court? Petitioner respectfully request this honorable Court that the Eleventh Circuit Court be granted Petitioner to stand before for this relief rather than the lower court.

0. The Correct Docket Number Case Should be Reviewed by the United States of Appeal Court for the Eleventh Circuit.

Petitioner did not appeal the docket number case to the Circuit Court. Because the Lower Court changed into the docket number case, the docket number case, which Petitioner requested to be reviewed by the Circuit Court, never have ever been done so far. This is not justice if this case will be closed without be granting any opportunity to be reviewed by the Circuit Court.

IV. CONCLUSION

1. According to the certified docket report of the true copy dated February 8, 2007, done by Deputy Clark William M. McCool, the appealing case number: 3:06cv474/MCR/EMT has been prevailed since October 25, 2006.

2. The Final decision of the District Court dated December 21, 2006, was for the Appealing Case(3:06cv474/MCR/EMT), but not for October 2004 Case.

3. "The Motion for rehearing" filed by Petitioner dated December 26, 2007, was for the Appealing Case, but not for October 2004 Case.

4. "The Motion for Rehearing" has been disposed by the District Court on January 4, 2007, in any way, under the Appealing Proceeding, but not under October 2004 Case Proceeding.

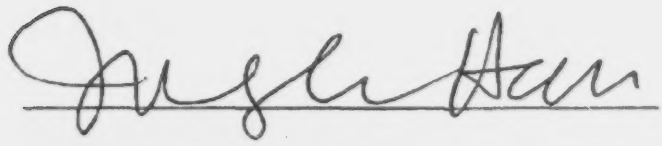
5. Accordingly, pursuant to Rule 6(b)(2)(A) of the Federal Rule of Appellate Procedure, "the Amend Notice of Appeal to the United States Court of Appeals for the Eleventh Circuit has been filed by Petitioner dated January 12, 2007.

6. However, the District Court did not submit "the Amend Notice of Appeal" as it was, but the notice which has been changed into the October Case Number.

WHEREFORE, Based on the arguments presented , petitioner respectfully request this honorable Court that the Circuit Court review the correct docket number case and that this action for a trial on the merits be done by the higher Court.

This day 29 of August, 2007

Submitted by



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(850)623-2060

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IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

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BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Apellant's motion for reconsideration of this Court's April 12, 2007, order denying appellant's motion to reinstate appeal is DENIED.

APRIL 12 2007

APPENDIX 1

IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

---

BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Appellant's motion to reinstate appeal is DENIED.

APRIL 12 2007

APPENDIX 2

IN THE UNITED STSTES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT

No. 07-10349-FF

JUNG BEA HAN, Plaintiff-Appellant

versus

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,

Defendant-Appe

Appeal from the United States District Court for the Northern District of Florida

---

BEFORE: BLACK and MARCUS, Circuit judges,

BY THE COURT:

Appellant's motion to reinstate appeal is DENIED.

MARCH 02 2007

APPENDIX 3

JUNG BEA HAN,
Appellant,

vs. Case No.:3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION,
Appellee,
_____/

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated November 17, 2006. Appellant has been furnished a copy of the report and recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a de novo determination of any timely filed objections.

Having considered the report and recommendation, and any objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now ORDERED as follows;

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. This case is dismissed.

Done and ordered this 31st day of December. 2006.

_____
M. CASEY ROGERS
UNITED STATES DISTRICT JUDGE

APPENDIX 5

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PENSACOLA DIVISON

JUNG BEA HAN,
Appellant,

vs. Case No.:3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS FINANCE CORPORATION,
Appellee,
_____/

REPORT AND RECOMMENDATION

This cause is before the court upon Appellant's notice of appeal from two orders of the Bankruptcy Court (Doc.2). However, Appellant failed to file a designation of the record on appeal as required by Bankruptcy Rule 8006 (*see* Doc. 2, attach.1, Bankruptcy Transmittal Sheet; *see also id.*, attach. 8, Certified Docket Report from Bankruptcy Proceeding, Doc. 55) Therefore, this action is subject to dismissal. See In re: Dennis & Linda Martin, Case No. 3:00cv008/LAC (N.D. Fla. Feb. 8, 2000) ((Doc.2) order of dismissal for failure to file designation as required by Rule 8006).

Accordingly, it is respectfully RECOMMENDED:
That this case by DISMISSED.
At Pensacola, Florida this 17th day of November 2006.

_____
ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA PENSACOLA DIVISON

MOTION FOR REHEARING

The undersigned, Jung Bea Han, files this motion for rehearing pursuant to Rule 8015 of Bankruptcy Rules and in accordance to the Local Rule 7.1(B)(3) of the Northern District of Florida as the following grounds;

1. Appellant Han had filed the designation of the record on appeal mistakenly as the notice of appeal after Han received the notice of the clerk of Bankruptcy.

For it, on November 21, 2006 as the personal service, Appellant Han verified that the clerk received the second notice of appeal on time.

APPENDIX 7

2. The Rule of 8003(c) of Bankruptcy Rules indicates like this;

(c) Appeal improperly taken regarded as a motion for leave to appeal

If a required motion for leave to appeal is not filed, but a notice of appeal is timely filed, the district court or bankruptcy appellate panel may grant leave to appeal or direct that a motion for leave to appeal be filed. The district court or the bankruptcy appellate panel may also deny leave to appeal but in so doing shall consider the notice of appeal as a motion for leave to appeal. Unless an order directing that a motion for leave to appeal be filed provides otherwise, the motion shall be filed within 10 days of entry of the order.

This Rule provides that a motion for leave to appeal is required before dismissing this case when a notice of appeal is timely filed. Appellant Han has filed the notice of appeal on time and then filed secondly the notice of appeal for the Designation of the Record on Appeal. Han never intended to leave to appeal.

And also, this Rule provides that if Appellant Han mistakenly believes the order appealed from is final and files only a notice of appeal, the appeal is not automatically dismissed.

3. After Appellant Han filed motion to grant this revised designation of the record on appeal, the District Court has done and ordered dated 6th day of December, 2006 that

The document shall remain in the electric file, but the court will not consider it until you have corrected the above deficiencies through the filing of a corrected document. The document is denied without prejudice with leave given to refile after correction.

This order grants that Appellant Han do the action to correct the deficiencies through the filing of a corrected documents and also grants Han to refile after the correction.

On the ground of the order, Appellant Han sent the Memoranda dated December 8, 2006 to the Appellee in accordance to the Local Rule 7.1(B) of the Northern District of Florida in order to correct the defficience as well as to refile the documents. For it, the Local Rule provides 14 days, which are not included Saturday, Sunday, and Christmas holiday, to the Appellant Han to complete the deficiencies, that is, until December 31, 2006. Thus, the order dated 6th of December, 2006 is still effective. Before refilling and correcting the deficiencies, the order dismissed this case dated 21st of December, 2006 may be not proper.

Appellant Han sincerely and respectfully ask that the final opportunity to review the amended designation of the record on appeal would be granted by this Court. And also Appellant Han has done his best to comply with this proceedings on timely and has been running for a few years to stand before this District Court.

THREFORE, the undersigned, JUNG BEA HAN, sincerely prays that the motion for rehearing be granted by this Court.

I hereby certify that true and correct copy of the forgoing has been furnished by U.S mail to Mandel, Daniel s. 2101 Corporate Blod., suite 300, Boca Raton, Fl 33431 this day 24th of December, 2006.

5340 Avenida De Golf,
Milton, Fl 32571.
(850)623-2060/438-4773

JUNG BEA HAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

In Re:
JUNG BEA HAN,

Appellant/Plaintiff

Vs. Case No.: 3:06cv474/MCR/EMT

GE CAPITAL SMALL BUSINESS
FINANCE CORPORATION,

Appellee/Defendant

RESPONSE (objection) TO THE PROPOSED FINDING AND RECOMMENDATIONS, AND MOTION TO GRANT THIS REVISED DESIGNATION OF THE RECORD ON APPEAL

COMES NOW, the undersigned, JUNG BEA HAN (hereinafter referred to as "HAN"), files this response (objection) to the proposed finding and recommendations done by the HONORABLE UNITED STATES MAGISTRATE JUDGE, ELIZABETH M. TIMOTHY dated 17th day of November 2006, and respectfully submits this motion to grant this revised designation of the record on appeal to The United Sates District Court of Northern Distract OF Florida as the following;

APPENDIX 8

1. Appellant Han has filed the designation of the record on appeal on timely after Han received "the notice of filing notice of appeal" done by the Clark of Court of the Bankruptcy Court dated September 22, 2006.
2. The designation of the record on appeal, which Appellant Han filed after the notice, was out of form of briefs, however, real meaning which Han intends to describe on the designation of the record on appeal, which this Court requires, was totally included in there.
Therefore, appellant Han sincerely and respectfully prays that this Court grant this motion to accpet the following revised designation of the record on appeal.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to MANDEL, DANIEL S. 2101 Corporate Blvd., Suite 300, Boca Raton, FL 33431 this day 23th of November 2006.

5340 Avenida De Golf
Milton, FL 32571
Tel. (850) 438-4773

_____

JUNG BEA HAN